

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

NORTHWEST ADMINISTRATORS, INC.,)	
Plaintiff,)	CASE NO. C10-1988-MAT
v.)	
ACE PAVING CO., INC.,)	ORDER GRANTING
Defendant.)	PLAINTIFF'S MOTION FOR
_____)	SUMMARY JUDGMENT

Plaintiff Northwest Administrators, Inc. moves the Court for summary judgment against defendant Ace Paving Co., Inc. (Dkt. 7.) This matter was brought pursuant to the Employee Retirement Income Security Act, 29 U.S.C. § 1001, et seq. ("ERISA"), and Section 301 of the Labor Management Relations Act, 29 U.S.C. § 185.

Plaintiff is the authorized administrative agent and assignee of the Western Conference of Teamsters Pension Trust ("WCTPT"). Defendant employs members of a bargaining unit represented by the International Brotherhood of Teamsters Local 589 ("Local 589") and is bound by a collective bargaining agreement with several Teamsters locals, including Local 589,

01 as well as the WCTPT Trust Agreement. (Dkt. 8, ¶¶ 9-13, Exs. A-D.) Through those
02 agreements, defendant is required to report and pay monthly contributions for eligible
03 employees. (*Id.*) The trust agreement contains terms as to damages owed as a result of any
04 delinquent contributions, as well as attorney's fees and costs. (*Id.*, ¶¶ 16-18, Exs. A-D.)

05 Plaintiff now seeks delinquent contributions and associated damages, attorney's fees,
06 and costs for September 2010 through January 2011. It attaches remittance reports from
07 defendant for the months in question and a spreadsheet showing the amounts owed, due dates,
08 and calculations of liquidated damages and interest. (*Id.*, Exs. E-F.) Plaintiff notes that a final
09 attorney's fees and costs amount will be submitted to the Court if the motion for summary
10 judgment is granted.

11 In its answer to plaintiff's complaint, defendant acknowledged the existence of the
12 agreements requiring its payment of monthly trust fund contributions, but otherwise denied
13 plaintiff's allegations and, in particular, disputed the legal effect of contract language
14 authorizing an award of liquidated damages. (Dkt. 5.) Defendant did not oppose plaintiff's
15 motion for summary judgment. The Court deems defendant's failure to oppose to be an
16 admission that the motion has merit. *See* Local Civil Rule 7(b)(2). The Court also, for the
17 reasons described below, finds plaintiff entitled to summary judgment.

18 Summary judgment is appropriate when "the pleadings, depositions, answers to
19 interrogatories, and admissions on file, together with the affidavits, if any, show that there is no
20 genuine issue as to any material fact and that the moving party is entitled to a judgment as a
21 matter of law." Fed. R. Civ. P. 56(c); *Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986).
22 The moving party is entitled to judgment as a matter of law when the nonmoving party fails to

01 make a sufficient showing on an essential element of his case with respect to which he has the
02 burden of proof. *See Celotex*, 477 U.S. at 322-23.

03 ERISA obligates participating employers to make contributions to a multi-employer
04 trust fund in accordance with the contract and trust agreement. ERISA Section 515, 29 U.S.C.
05 § 1145. ERISA provides specific mandatory remedies for delinquent contributions, including,
06 in addition to the unpaid contributions, liquidated damages, interest, attorney's fees, and costs.
07 § 1132(g)(2). As noted, defendant also signed a trust agreement containing terms as to
08 damages owed as a result of delinquent contributions.

09 In this case, using defendant's remittance reports, plaintiff calculates total trust fund
10 contributions owed in the amount of \$74,425.10 for the period of September 2010 through
11 January 2011. (Dkt. 8, ¶27 and Ex. F.) Plaintiff further calculates that defendant is obligated
12 to pay liquidated damages in the amount of \$14,885.02 and pre-judgment interest, through
13 February 25, 2011, in the amount of \$849.59. (*Id.*)

14 The Court finds no issues of fact regarding either the enforceability of the collective
15 bargaining and trust agreements at issue in this case or plaintiff's entitlement to the total amount
16 of delinquent trust fund contributions, liquidated damages, and interest sought, as well as to
17 plaintiff's entitlement to attorney's fees and costs. Accordingly, plaintiff's motion for
18 summary judgment is hereby GRANTED and plaintiff awarded the delinquent contributions,
19 liquidated damages, and interest requested, and attorney's fees and costs in an amount to be
20 determined. However, because plaintiff calculated the amounts described above as of
21 February 2011, a revised accounting may now be in order. Plaintiff must also submit a total
22 amount of attorney's fees and costs requested. Plaintiff shall submit such information within

01 **ten (10) days** of the date of this Order.

02 DATED this 25th day of April, 2011.

03
04 

05 Mary Alice Theiler
06 United States Magistrate Judge
07
08
09
10
11
12
13
14
15
16
17
18
19
20
21
22